

Application No. 09/690,159
Amendment dated September 30, 2003
Reply to Office Action of July 8, 2003

REMARKS

Claim Rejections 35 U.S.C. § 112:

Claims 34-41 were rejected under 35 U.S.C. § 112, paragraph two, as being indefinite. Specifically, claim 34 was rejected as having insufficient antecedent basis for the limitation "the advertiser's advertisement." As amended, the term "advertisement" has correct antecedent basis.

Claim Rejections 35 U.S.C. § 103(a):

Each pending claim was rejected under 35 U.S.C. § 103(a) as being anticipated unpatentable over Levitan et al. (US 2002/0073421) in view of Ballard (US 6,182,050). Although none of the claims are believed to be obvious over Levitan in view of Ballard, the independent claims have been amended to clarify that content is rated. For example, referring to claim 7, content may be used on a content receiver. Content may be temporarily replaced by advertising. One or more characteristics of content is assigned a predetermined rating. The rating for the content is compared to a content rating specified by an advertiser. Thus, the advertiser specifies which content rating is agreeable to the advertiser. In this way, the advertiser is assured that its advertising is associated with content agreeable to the advertiser.

Ballard does not correct the deficiency found in Levitan. For example, pursuant to Ballard, demographic or affinity based information may be used to match advertising to an end user. From this, it is concluded in the Office Action that an advertiser specifies rating for the content of the ad. However, claim 7 does not call for the advertisement to be rated, only content other than the advertising (i.e., content is temporarily replaced with an advertising; content characteristics are rated) is rated. Thus, because neither Levitan nor Ballard address comparing rated content to a content rating specified by an advertiser where the rating is based on the degree to which a characteristic is present within the content, a *prima facie* case of obviousness has not been established. Similar analysis may be made with respect to independent claims 17, 21 and 34.

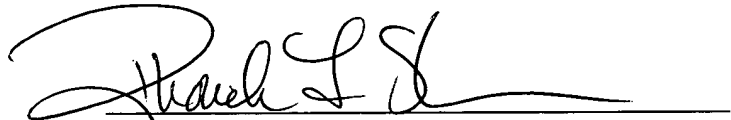
Application No. 09/690,159
Amendment dated September 30, 2003
Reply to Office Action of July 8, 2003

In view of the comments herein, it is respectfully requested that the rejection of claims 7-10, 17-25 and 28-41 be withdrawn. It is believed that the application is in condition for allowance. Thus, the Examiner's prompt attention in accordance therewith is respectfully requested.

To the extent that a fourth independent claim has not been paid for, for example in the Request for Continued Examination filed on April 16, 2003, the Director is hereby authorized to charge the fee for the fourth independent claim, or credit any overpayments to Deposit Account No. 20-1504 (ITL.0472US)

Respectfully submitted,

Date: September 30, 2003



Rhonda L. Sheldon
Registration No. 50,457
TROP, PRUNER & HU, P.C.
8554 Katy Freeway, Suite 100
Houston, Texas 77024-1805
(713) 468-8880 [Phone]
(713) 468-8883 [Fax]

Customer No. 21906